

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BEATRICE THORPE,)	
)	
Plaintiff,)	8:05CV150
)	
v.)	
)	
SOCIAL SECURITY)	MEMORANDUM AND ORDER
ADMINISTRATION,)	
)	
Defendant.)	
)	

The defendant has filed an unopposed motion to enter a final judgment reversing the decision of the Administrative Law Judge and remanding this case to the Commissioner under sentence 4 of 42 U.S.C. § 405 (g). Filing 14.

The defendant's motion states that after reviewing this case, the agency's counsel forwarded the case to the Appeals Council for review. The Appeals Council concluded that "remand should be sought as the Administrative Law Judge (ALJ) appears to have fashioned his residual functional capacity (RFC) finding without any medical support from a mental health professional in contravention of Eighth Circuit case law," and upon remand, the ALJ should obtain testimony from a medical expert who is a mental health professional concerning any mental limitations the plaintiff had on and prior to December 31, 1999, when the special earnings requirements for disability purposes were last met, and should further obtain, if necessary, additional testimony from a vocational expert. Filing 14 at p. 1. According to the defendant, if this additional information is collected and evaluated, judicial review of the resulting decision may be unnecessary. Filing 14 at p. 2.

Since the court construes the defendant's motion as a concession of error at the administrative level which brings into question the decision below, and because the defendant specifically concedes that this matter should be remanded pursuant to sentence four of 42 U.S.C. § 405(g), I shall reverse and remand this matter to the Commissioner for proper consideration and reevaluation of the evidence, as stated in the motion.

IT THEREFORE HEREBY IS ORDERED:

1. The defendant's unopposed motion to reverse and remand, filing 14, is granted.
2. This matter is reversed and remanded pursuant to sentence four of 42 U.S.C. § 405(g) in order to allow the Commissioner to reevaluate Plaintiff's claim; and
3. Judgment shall be entered by separate document.

DATED this 28th day of July, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge